

*United States Court of Appeals
for the Second Circuit*



APPENDIX

75-7406

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 75-7406

EUGENE LEWIS, GLADYS CROOM, etc.

Plaintiffs-Appellees,

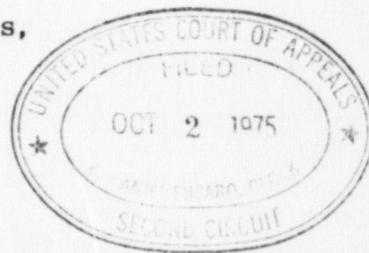
v.

JOSEPH A. WALSH, etc., et al

Defendants,

PETER FREER and FRANCIS MATTHEWS,

Defendants-Appellants



APPEAL FROM VERDICT AND JUDGMENT OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

JOINT APPENDIX

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PAGINATION AS IN ORIGINAL COPY

Croom - direct

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Q When did you first see and hear police officers that night?

A When they came in the door.

Q Where were you, what room of the house were you in?

A Well, the kitchen and the living room was both together, but I was in the kitchen section.

Q Is that on the first floor?

A First floor.

Q Toward the rear?

A Yes.

Q What happened when the police came in?

A Well, they -- all of a sudden, I looked and three or four came in there and --

Q In the kitchen door?

A Kitchen door -- back door, the kitchen door.

Q Did they knock or identify themselves?

A They was in uniform, so I recognized them as police officers.

Q They just walked in the back door?

A They didn't just walk in. They kind of rushed in.

Q Did you open the door for them?

A I was fixing to, but the door was already unlocked.

Q I didn't hear that.

A I was fixing to, because the door was already unlocked.

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Croom - direct

Q You unlocked it?

A Yes.

Q They just came pushing in?

A Came rushing right on in.

Q Then what happened?

THE COURT: Did you go to the door to unlock it, or was it unlocked?

THE WITNESS: I might have had it unlocked, because I had a knock on the door before, and I unlocked it and went upstairs and came back down. I thought the same people was coming right on back.

THE COURT: I don't understand.

THE WITNESS: Somebody had knocked at the door before the officers.

THE COURT: Before the officers?

THE WITNESS: Yes.

THE COURT: Not the officers?

THE WITNESS: No.

THE COURT: Did you see who knocked?

THE WITNESS: All I saw was a hand.

THE COURT: A hand?

THE WITNESS: Yes.

THE COURT: You saw a hand outside the door?

THE WITNESS: Inside the door. We have a window

Croom - direct

17

what was broke there, and it was just a piece of cardboard thumb tacked there. So whoever it was, they accidentally pushed that cardboard, and I saw somebody's hand, and they asked for somebody. The person they asked for wasn't at the house at the time, so I said, "Wait a minute. I'll go down and look at the tavern," because I was already up ready to go to work.

THE COURT: Then that person went away?

THE WITNESS: They went away, so I thought they came back.

Q When the police were at the door, did you go to the door?

A Yes.

Q What brought you to the door? Was there a knock? What made you go to the door?

A There was a knock at the door.

Q Did you open the door, or was it open for you?

A I was just about to open it. I had the knob in my hand. I had the handle in my hand.

Q The door was pushed open?

A We got two doors there, screen door and a door. They just came right on in.

Q They just came in? There were three of them?

Croom - direct

2 MR. WEINSTEIN: It indicates Officers Matthews
 3 and Freer as the arresting officers. I don't know
 4 exactly whose handwriting appears on it, but counsel
 5 concedes the authenticity of it as the arrest
 6 report, so I show it to your Honor.

7 THE COURT: If it's -- is the claim this was made
 8 out by one of the officers?

9 MR. WEINSTEIN: It's the arrest report from
 10 police department records, agreed to be authentic.
 11 Whether or not one of those officers wrote on it,
 12 I don't know, but it indicates that the defendants
 13 are the arresting officers of John Croom.

14 THE COURT: Was it only offered for that purpose?

15 MR. WEINSTEIN: Yes, to establish who made the
 16 arrest.

17 THE COURT: All right.

18 MR. WEINSTEIN: In view of the acknowledgement
 19 of authenticity --

20 THE COURT: IF it's only offered to show who made
 21 the arrest, there is no problem.

22 MR. WEINSTEIN: That's why it was being offered.

23 Q Mr. Croom, did there come a time when the charge
 24 against you was eventually disposed of in court?

25 MR. KEARNS: I'm going to object to this for

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Croom - direct

1 reasons already discussed with your Honor, the basis
 2 of the recent District of California case. It's not
 3 admissible against the arresting officer what court
 4 personnel does with their charges, because they have
 5 no control over them.

6 THE COURT: I understand your claim. I will
 7 overrule the objection. He can testify to what
 8 happened.

9 Q. If you know, sir, did there come a time when the
 10 charges against you were -- they again came up in court and were
 11 disposed of?

12 A. They did. I had a lawyer with me. I think we came up
 13 twice to court.

14 Q. What was the final outcome?

15 A. Nolled.

16 Q. Do you know when that was done?

17 A. I don't remember the exact date.

18 MR. WEINSTEIN: May we agree that November 9,
 19 1971 would be the date?

20 MR. KEARNS: If you say so, Mr. Weinstein.

21 MR. WEINSTEIN: Well, I believe Mr. Kearns is
 22 stipulating based on court records I have just shown
 23 him that the nolle was entered on November 9, 1971.

24 THE COURT: All right. The jury should understand

Croom - cross

40

A anything about --

THE COURT: There was some testimony. He said something about it.

MR. WEINSTEIN: I would object to the question as framed by the police telling him concerning some evidence.

THE COURT: Overruled. If that's what they told him, he can say so. If they said something different, he can say so. It's a proper question.

Q Didn't you testify on direct that the police told you that the evidence was the Coke, the cartons of Coca Cola, that was the evidence?

A They said that was so, they said that was seen right there because when you opened up the back door, you could look and see the empty cases of Coke, but I didn't count what it was, because I was in a hurry to get to work.

Q I will show you three photographs and ask you if the items on those tables were also taken from your apartment on that evening? Do you recall testifying at that time on item 16

A These look more like items that they showed me when they took me back down to the police station."

Q I ask you if those items shown in those three photographs on the table were taken from your apartment?

A No. You remember testifying to that in my office?

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Croom - cross

A No. but like I said, there was a knock before I saw QY You never saw those before? they was the same people, because A No. the people knock at the back door and ask some stupid que Until you got to the police station? I'll be right back.

A That is right. testifying at page 16 and 17 of your deposition MR. KEARNS: May I have these marked for identification only? you had even had a chance to look up from THE COURT: Yes. I, J and K.

Q Do you recall -- withdraw that.

Q You testified on direct, as I understand it, Mr. Croom, that you opened the door and you went to the door whence you heard the knocking? nothing, do you recall stating that in deposition? Yes.

Q Do you recall January of '74 a little more than a year ago when you were in my office with Attorney Weinstein and there was a stenographer present, and you gave a deposition under oath at that time?

A Yes.

Q Do you recall testifying at that time on page 16 it, that my question: "Was there a knock at the door?", and your answer: "I don't remember a knock." handcuffed Roosevelt the house. Question: You just heard a kicking? policemen.

Q Answer: "Yes." question on page 22 of the deposition Do you remember testifying to that in my office?"

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1 A At Wonder Bread.

2 Q When did you finish work that evening?

3 A See, I finished work about 10:30 and the way they
4 worked it, they give you a schedule, you know, come in and so
5 I didn't have a regular time to go in. I just had to look at
6 the schedule. It just so happened that night I was getting off,
7 you know, probably I had to go to work at 2:00 and work some
8 overtime and you get off at 10:30.

9 Q 10:30 at night you finished your work?

10 A Right.

11 Q Then you went home?

12 A Right.

13 Q About how long did it take you to get home?

14 A Anywhere from 20 minutes to a half hour; I was
15 walking.

16 Q You got home around 11:00 o'clock?

17 A Right.

18 Q When you got home was Jeffrey already at home?

19 A No.

20 Q Was your father-in-law, John, home?

21 A Yes, he was.

22 Q About when did the police come in?

23 A They came in aboutten or fifteen minutes after I
24 was home.

Shields-direct

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2 Q About ten or fifteen minutes after you were home?

3 A At 11:00 o'clock, it was about 20 after, something

4 like that.

5 Q Do you remember seeing Jeff come in that evening?

6 A Yes.

7 Q About how long after you got in did Jeff get in?

8 A About ten minutes.

9 Q So you were home about ten minutes and ten minutes
10 after that, Jeff came in?

11 A Right.

12 Q And then the police, about ten minutes after that?

13 A Right.

14 Q When Jeff came in did he have anything with him,
15 any objects? Was he carrying anything?

16 A No, he wasn't.

17 Q When he came in was he alone?

18 A Yes, he was.

19 Q There has been some mention of some Coke, cases of
20 Coke bottles. Do you recall seeing them in the house?

21 A Yes, I do. I bought them.

22 Q Where were they that evening?

23 A Well, we usually keep them in the kitchen closet.

24 Q In the kitchen closet. Is that a closed closet or
25 an open pantry-like area?

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2 A It's open pantry-like.

3 Q So the Coke bottles were visible in the kitchen,
4 you could walk in the kitchen and you could see them, is that
5 right?

6 A Yes.

7 Q How many cases of Coke were there?

8 A Two.

9 Q You had bought those?

10 A Right.

11 Q As you look into the kitchen from the back door,
12 was there any machinery around there that could be seen at all?

13 A Not as I know.

14 Q Typewriters, adding machines, television; anything
15 of that sort?

16 A No.

17 Q Did you see the police officers take anything in
18 your home that evening after they had taken John and Jeffrey
19 and Sparky?

20 A Yes.

21 Q Where did they take him?

22 A When the police went upstairs they came back down
23 with a TV and something to me looked like a typewriter. I
24 don't know; I am not sure.

25 Q A tape recorder?

Copy

1 A Probably so, it could have been.

2 Q Was it in a case of some sort?

3 A Yes.

4 Q All right. Now, how long had you been living in the
5 house up to that time?

6 A About a year.

7 Q The TV that the police took, to your knowledge, how
8 long had it been in the house?

9 A To my knowledge it had been there when I got there.

10 Q So it was there at least a year?

11 A Right.

12 Q So that was the TV that the police took?

13 A Yes.

14 Q This other object in the case, do you know if that
15 had been in the house before?

16 A Yes.

17 Q How long?

18 A To my knowledge as long as -- it was there when I
19 not there.

20 Q That other thing in the case had been laying around
21 the house for a year, too?

22 A Yes.

23 Q Did you see the police take anything else out of
24 the house?

Copy

1 A No.

2 Q Did you remain in the house that whole -- I guess,
3 night?

4 A Yes.

5 Q After John and Jeffrey --

6 A Yes.

7 Q -- were taken?

8 A Yes.

9 Q So if the police had taken something out of the
10 house you would have seen it?

11 A Right.

12 Q And they didn't?

13 A No.

14 Q At any time did you see Jeffrey try to fight with
15 any police officers?

16 A No, I didn't.

17 Q Kick them or carry on physically, assault them at
18 all?

19 A No.

20 Q Aside from asking why he was being arrested, did he
21 attempt to resist being arrested?

22 A No, he didn't.

23 MR. WEINSTEIN: Counsel may inquire.

COPY

1 Q Where were they kept?

2 A In the pantry in the kitchen.

3 Q That pantry, was it open to the kitchen?

4 A It was open, yes. It was facing the kitchen door.

5 Q Facing the kitchen door? The back door?

6 A Right.

7 Q So somebody who was so inclined could look in the
8 window and see into the pantry?

9 A Not unless they were peeking into the house, you
10 know. You couldn't just walk up to the door and look in and
11 see what was in the pantry.

12 Q Why was that, was there something between the door
13 and the pantry?

14 A Well, there was a curtain hanging up to the window.

15 Q But if somebody really was wanting to peek in they
16 might be able to see in?

17 A Yes, because the curtain didn't fit all the way down.

18 Q This Coke, this couple of cases of Coke that was in
19 the pantry, had they been there prior to that evening?

20 A You mean were they there earlier that day?

21 Q Yes.

22 A Yes.

23 Q Were they there the day before?

24 A Yes, they were there when, you know, from the --

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Croom - cross

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be restated so we all have a handle on it?

THE COURT: Put the question.

Q. Mr. Croom, where were you prior to 11:00 p.m. on that evening?

MR. WEINSTEIN: Your Honor, it was anticipated that this question might be asked, and I discussed the situation with Mr. Croom, and on my advice, he indicates that he will not answer any questions concerning what happened prior to 11:00 or thereabouts in the evening, because he is exercising his rights under the Fifth Amendment with regard to those matters.

MR. KEARNS: The statute of limitations has run, as counsel has said, I don't see how any answer he can give can possibly tend to incriminate him. The statute has run.

MR. WEINSTEIN: I'm not so clear that the cases say that the statute has run.

THE COURT: What's not clear, whether the statute has run?

MR. WEINSTEIN: Yes.

THE COURT: It's obvious there are many claims to be made on this point. What I'm going to do is excuse the jury for the day and ask you to come back at 10 o'clock tomorrow morning and we will resume the testimony

certified emergency room record concerning Jeffrey Croom's treatment that evening. I will show it to counsel.

MR. KEARNS: No objection.

THE COURT: Plaintiffs' Exhibit 11.

(Document marked Plaintiffs' Exhibit 11 in evidence.)

MR. WEINSTEIN: The jury can have this in the room. I shan't take the time now.

Q Now, one preliminary point. You got in that evening, you got home I think you said about 11:10 or thereabouts?

A Yes.

Q And from the time you got home until the time the police came, which is some time between 11:20 and 11:30, did you have occasion to go into the kitchen at all?

A Yes.

Q This pantry that's in the kitchen, tell the jury where it is in relation to the back door, the kitchen door, and that window in the back.

A It was directly in front of the back door.

Q Directly in front of the back door, so if you are standing at the back door looking into the kitchen the pantry is directly in front of you, not to the right or the left?

A Right.

Copy

1 A No, sir.

2 Q They were occupants of the house, weren't they?

3 A From what we understood it wasn't their apartment,

4 sir.

5 Q You say it wasn't their apartment?

6 They were living and sleeping there and living there
7 full time, weren't they?

8 A Yes, sir.

9 Q It was their residence, wasn't it?

10 A Yes, but the apartment is rented by Mr. Croom.

11 Q And that's why you arrested him?

12 A Not on those grounds alone.

13 Q I can't hear you.

14 A Not exactly because they lived there and he lives
15 there also, but the apartment is in his name.

16 Q And that's why you arrested him because the
17 apartment was in his name? Is that correct?

18 A Yes, sir.

19 MR. KEARNS: Objected, he stated as to the
20 items he found. It's not a fair question.

21 THE COURT: Your question is that the only
22 reason?

23 Q You arrested him because you found items you
24 thought were stolen in the apartment that was rented to him?

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A/6

A Yes, it's his apartment, yes, sir.

Q It was in the same apartment?

A Yes, his apartment.

Q You had no knowledge at that time of whether he knew the items were there or if they had been brought in by somebody else, did you?

A Well, didn't I answer that before, saying he didn't know whose they were, who they belonged to?

MR. KEARNS: Thank you. Counsel may inquire.

CROSS-EXAMINATION

BY MR. KEARNS:

Q Officer, going back to the beginning, what was the first indication you had of/ involving the Croom's apartment?

A We had received --

Q Speak into the microphone because the acoustics are very bad.

A We had received a call that while we were on patrol that there were persons pushing what appeared to be a safe and a market basket between the two buildings, I believe it was 31 and 32 and 33 at Marine Village and they had typewriters in the shopping basket.

Q How did you get that information?

A Over the police radio, sir.

Q What did you do in response to that radio message?

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1 Q Was the apartment under your observation, or if
2 you know, your partner's while you were making that call?

3 A Yes.

4 Q Nothing odd happened then?

5 A Not that I recall, no.

6 Q It was your partner again who picked up the phone?

7 A Yes.

8 Q He was told something about your actually having
9 been observed by somebody?

10 A Yes.

11 Q Who did he call, did he call the dispatch room or
12 somebody at police headquarters?

13 A The Complaint Bureau. That's where we --

14 Q He wasn't talking to the person observing, he was
15 getting this from the Complaint Bureau, somebody had already
16 spoken --

17 A Somebody speaking to the Complaint Bureau and they
18 were talking to them, relaying the information.

19 Q They said they had seen some stuff being wheeled
20 in what?

21 A They said that it was a market basket. It had two
22 typewriters in a market basket and what appeared to be a safe.

23 Q That's your best recollection, two typewriters in
24 a market basket and what appeared to be a safe?

2 A Not in the market -- the safe not in the market
3 basket. The safe separate being pushed but what appeared to be
4 a safe being pushed.

5 Q On its own wheels?

6 A Yes. I would assume so. That's what I take it as.

7 Q Was the name Kevin Blackwell mentioned?

8 A Yes, sir, it was.

9 Q Did you attempt to locate Kevin Blackwell?

10 A When we went into the apartment my partner went
11 upstairs, we asked the parties in the apartment if any of them
12 were Kevin Blackwell and they said no.

13 Q Was any attempt beyond that made to locate a Kevin
14 Blackwell?

15 A No, sir, not at that time.

16 Q To your knowledge was a Kevin Blackwell ever
17 arrested in connection with this supposed business?

18 A Not to my knowledge, no.

19 Q Did you know whether or not a Kevin Blackwell
20 lived in the very next building to the Croom apartment?

21 A I didn't know where Kevin Blackwell lived. I
22 heard the name before but I didn't know where he lived.

23 Q Did you generally ascertain that Kevin Blackwell
24 lived next door?

25 A No.

Q Did you say you approached the back door and you
looked in? Was there a light on in the kitchen?

A Yes, sir.

Q When you approached the door what did you see?
There was a window on the door?

A Yes, sir.

Q What was immediately behind the window?
A Immediately behind the window you can look in and
see the pantry and a portion of the kitchen.

Q Immediately behind the door is a curtain or shade?
A I believe there is a shade which was pulled
partially down and there was a curtain which was partially open.

Q How partial, about an inch?
A A couple of inches, I guess. I don't recall at the
time.

Q Did you just walk up to the door and look in or did
you bend down and peep?

A You had to bend down a little bit because it's not
that high.

Q You bent down and peeped right into the kitchen?
A Yes, into the pantry.

Q There was a light on in the kitchen?
A Yes, sir.

Q Was there a light on in the pantry?

1 A There was a light in the pantry from the kitchen.

2 Q Was there a light on in the pantry?

3 A There was light in the pantry from the kitchen.

4 THE COURT: I don't understand this particular
5 quibbling. He said there was a light on. Are you
6 asking him the placement of the bulb?

7 MR. WEINSTEIN: Well, in effect --

8 Q There was a light on in the kitchen area, right?

9 A Yes.

10 Q And the pantry is off the kitchen?

11 A Right.

12 Q You have heard Jeffrey describe it as kind of a
13 narrow, very deep room, right?

14 A Yes.

15 Q Does that comport with your memory?

16 A No. It's not as deep as he said it was. I heard
17 him say it was not a deep --

18 Q Narrow but not quite that deep?

19 A I would say about four foot wide, a little less
20 than four foot wide maybe.

21 Q How deep?

22 A Approximately I would say ten foot. That was the
23 remainder of the kitchen is -- in other words, it helps divide
24 the kitchen into the living room. Let me explain it this way:

2 The wall of it is recessed back from the door to
3 allow the door to swing open, so how wide is a door? Three foot,
4 so that's how far the partition sets back. That partition goes
5 back to where the living room is and that partition is
6 approximately ten feet long, so I will put it in the vicinity of
7 four foot by approximately ten foot.

8 Q Is there a refrigerator in front of it?

9 A No. Refrigerators are off to the side. You couldn't
10 open the door if the refrigerator was in front of it because it
11 only allowed for a door to swing and had it been a refrigerator
12 you couldn't swing the door open.

13 Q Is it your testimony that the illumination from the
14 kitchen spilled over into this pantry and lit it up enough for
15 you to see into it?

16 A Yes.

17 Q There was no light on in the pantry itself?

18 A Not to my knowledge.

19 Q These cases of Coke, were they in the front?

20 A Yes, sir.

21 Q And these other objects you say were found in the
22 pantry, they were behind the Coke then?

23 A Alongside.

24 Q From front to back, that is from the entry way to the
25 kitchen to the rear wall, were they behind the Coke bottles?

A No, they were -- Coke bottles were stacked up and they were right in relation to it maybe you would call it -- howlong is a Coke case? A couple feet? Just about to the rear of them, not behind them, but just like to the rear.

Q Not behind them but to the rear?

A Yes. As opposed to the front.

Q So the Coke cases were between the kitchen door and these objects?

A Between the kitchen door and the object. The Coke cases were -- there is no -- there is a door on the kitchen which swings inward. At the pantry entrance there was the Coke cases. Now, the Coke cases have a front and they have a back, so as opposed to the front they were near the back side of the Coke cases on top of one another.

Q So you're saying you looked right through the Coke cases and claim to have seen a typewriter?

A I am not saying I looked through them. I am saying I am looking at them. In other words, your Coke is here and your things are here.

Q While you were bending down peeking through the window?

A Yes.

Q In other words -- in your experience as a police officer if in fact somebody would have stolen those objects,

Matthews-direct

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1 A Yes.

2 Q As near as you can recall what were you told by
3 whoever it was you were talking to over the phone?4 A When I called the Complaint Bureau, the party on
5 the other end, the police officer on the other end of the
6 phone stated that they are talking to a woman caller and that
7 this party stated that we had just passed the apartment and
8 that the two colored parties that went into the apartment were
9 Jeffrey Croom and Kevin Blackwell and these -- and there was
10 a negro female in a red dress who held the door open while they
11 were carrying the items into the apartment.
12

13 Q That's it?

14 A Yes.

15 Q And you had the apartment under observation while
16 this call was going on?17 A I didn't, no. While I was talking on the phone
18 I didn't, no.

19 Q Then you returned to the apartment, did you?

20 A Yes.

21 Q To the back door?

22 A My partner and I, yes.

23 Q Was there a shopping cart in the back yard?

24 A There were several.

25 Q In the back yard of the Croom apartment?

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1 A No, not in Croom's back yard there wasn't.

2 Q Did you happen to notice whether or not there was
3 a safe lying about in the back yard of the Croom's apartment?

4 A In Croom's back yard?

5 Q Yes.

6 A There was no safe. I didn't see no safe in his
7 back yard.

8 Q It's a smallish back yard, isn't it?

9 A The back yard is, yes.

10 Q If there had been a safe laying about do you think
11 you would have noticed it if it was at the back door?

12 A If it was in his back yard?

13 Q Yes.

14 A I think I would.

15 Q What if anything were you told by this person you
16 spoke with on the phone at police headquarters about the caller,
17 identifying the caller that he had gotten the call from?

18 A You mean the police officer I was talking to?

19 Q Yes.

20 A Yes. He stated that this party has called in the
21 past and he was still talking to her on the phone when I was
22 having my conversation with him on the phone.

23 Q He was talking to both of you at the same time?

24 A The conversation between the woman and a member of

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1
2 the police department was going on while he was still talking
3 with me on the phone, giving me information.

4 Q Was she speaking to your fellow officer or somebody else?

5 A I don't recall who it was.

6 Q All right. The call was going on. You were told
7 that she had called in the past?

8 A In the past.

9 Q That's it?

10 A Yes.

11 Q You signed this report of September 21, 1971,
12 didn't you? It's indicating Plaintiffs' Exhibit 2.

13 A Yes.

14 Q As a matter of fact, you typed it up, didn't you?

15 A I believe I typed it up. I believe I typed that
16 report, yes.

17 Q There are only two people who sign it, Matthews and
18 Freer?

19 A I don't recall if I typed it or my partner typed
20 the report.

21 Q It says Patrolman Freer and myself; you're Matthews?

22 A Yes.

23 Q So you typed it?

24 A Yes, I did.

25 Q Why did you say in that report, given your testimony

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1 just now, "Acting on speedy information from a reliable source
2 whose information in the past has resulted in arrests"?
3

4 A Why did I say that? Because at the time of the
5 incident I was acting on speedy information.

6 Q Did you have any knowledge of who it was that was
7 causing -- who was calling into police headquarters?

8 A Did I? No, except it was a female, that's all.

9 Q That's all you knew?

10 A Yes.

11 Q Do you know if she had given any information in the
12 past that resulted in any arrests?

13 A No, I don't personally.

14 Q When did you make this report out?

15 A That night.

16 Q After you knew Jeffrey Croom had been seriously
17 injured while in custody and in handcuffs?

18 A After arrest, yes.

19 Q You included that phrase, "those information in
20 the past had led to arrests," in that report, didn't you?

21 A Yes, from my conversation with the police officer,
22 I assumed that this lady had called in the past with

23 Q What made you assume that from your conversations
24 which you just recounted to us?

25 A From the information he had.

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MAY 1971
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1 had called in the past.

3 Q And what made you assume that any information she
4 had given in the past had been anything other than garbage,
5 why did you assume that it led to arrests?

6 A I don't know, I just did.

7 Q Are you trained to say when you make reports to
8 justify arrests that you always act on speedy information that
9 results in arrests; that is a verbal formula that you are
10 instructed by your department to make?

11 MR. KEARNS: Object.

12 THE COURT: Overruled.

13 A No, not all the time, no.

14 Q Sometimes?

15 A Yes.

16 Q Whether or not you know there had been arrests,
17 they tell you to put that in to justify the --

18 A No.

19 Q Under what circumstances do they tell you to include
20 the phrase, "those information had led to arrests"?

21 MR. KEAPNS: Object. There is no testimony
22 anybody told him to do it. He just testified as
23 to some instructions.

24 He said he put that in. But not that he was
25 told.

Copy

A There was a space I would say, possibly two to three inches, the whole length of the windows coming down.

Q Through that space you say you could see the pantry and a little bit of the kitchen?

A Yes.

Q What did you see in the pantry?

A I observed two typewriters stacked on top of one another. There was a black case alongside of them, and I could observe portions of the Coke, cases of Coke.

Q Is it your testimony the typewriters and black case were in front of the Coca Cola toward the door?

A They weren't in front of them.

Q Was the Coke in front of them?

A No. The Coke was off to the side.

Q And they were in the pantry?

A They weren't actually in the pantry. They were right in front of the entrance leading into the pantry.

Q So now your recollection is that these things were not in the pantry at all but in the kitchen itself?

A I never said they were in the pantry. They said they were leading into the pantry. The pantry just runs right off to the kitchen and they were in the middle of the pantry entrance way.

Q In your report of September 21 you did say that

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141 CHURCH STREET

1 Q Are you the man who arrested John Croom?

2 A My partner and I placed John Croom under arrest.

3 Q What was John doing when you entered the kitchen?

4 A I believe he was sitting at the kitchen table.

5 Q What doing?

6 A I think he was in the process of eating.

7 Q How long after you arrived did you place him under
8 arrest?

9 A The conversation -- I would say five to ten minutes.

10 Q What if anything did he do during that five to ten
11 minutes to lead you to believe that this man was properly
12 subject to being handcuffed and arrested?

13 A After talking to his son, Jeffrey, I then went over
14 and talked to Mr. Croom and I asked him if he had any idea how
15 these items came into the house and he stated to me that he had
16 just come home and he observed his son Jeffrey and a friend of
17 his carrying items into the house, but he didn't know what they
18 were.

19 Q THat is the basis on which you arrested Mr. John
20 Croom?

21 A Yes, because it was his apartment, yes.

22 Q How did you ascertain that?

23 A He stated this.

24 Q Did you advise him of his rights before you had this

1 conversation with him?

2 A Yes, I did.

3 Q You didn't mention that.

4 MR. KEARNS: You didn't ask him.

5 I object. I object to the comment.

6 THE COURT: He didn't mention it to you. I
7 don't know what you mean by that.

8 MR. WEINSTEIN: I asked what the conversation
9 was.

10 Q You did advise him of his rights?

11 A Yes.

12 Q When did you do that?

13 A Shortly after talking to him in regards to finding
14 that it was his apartment.

15 Q After?

16 A After finding out that the apartment was his, he
17 was then told he was being placed under arrest for possession
18 of stolen property.

19 Q You then advised him of his rights?

20 A Yes.

21 Q One of the important reasons was that
22 apartment, right?

23 A Yes, it was.

24 Q And he told you that prior

Matthews-redirect

Q What about John Croom?

A The father, no.

Q Assuming for a moment that your caller was accurate
in saying that some items had been taken into the Croom house,
how long prior to your entry do you reckon that could possibly
have happened?

THE COURT: The call?

MR. WEINSTEIN: The taking of the stuff into
the house.

MR. KEARNS: I object to that.

MR. WEINSTEIN: I claim it, sir.

MR. KEARNS: If he arrested John Crooms for
receiving goods --

THE COURT: Do you understand the question?

THE WITNESS: No, I don't.

Q When do you think --

THE COURT: Based on the information you got
from the calls, in the first place, do you have any
idea how long before you got to the Croom house
were the items that the caller reported brought
into the Croom house?

THE WITNESS: I would say it was a matter of
three to five minutes possibly.

Q Three to five minutes. And what would you, as an

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1
2 arrested, or is it a good faith exercise of this
3 man's powers simply to arrest him, simply because
4 he was in the kitchen.

5 THE COURT: You can ask him what his view was
6 about -- you're asking now what he thinks somebody
7 else might have done?

8 MR. WEINSTEIN: No.

9 THE COURT: That's what the question says.

10 Q What did you believe John Croom had done that evening
11 within, as you say, three to five minutes, that Jeffrey might
12 have brought the stuff in, to justify your arresting him?

13 A I still don't --

14 Q When you arrested John Croom, you did it because you
15 assumed he committed some crime, I gather?

16 A Because it was his apartment and these items that
17 were in the apartment --

18 Q So the sole basis for your arrest of John was that
19 he was paying rent on the apartment in which the tape decks were
20 located?

21 A Not the tape decks, no.

22 Q You took the tape decks out?

23 A Yes.

24 Q How about the television --

25 THE COURT: We have been all over what he

2 G E O R G E P A S T O R , called as a witness by the
3 defendants, having first been duly sworn by the Clerk of
4 the Court, testified as follows:

5 THE CLERK: State your name and address.

6 THE WITNESS: George Pastor, 41 Fairweather
7 Terrace, Bridgeport.

8 DIRECT EXAMINATION

9 BY MR. KEARNS:

10 Q Are you employed, Sergeant, as a Bridgeport Police
11 Officer at the present time?

12 A Yes, I am.

13 Q Where you so employed September 21, 1971?

14 A Yes.

15 Q What was your rank at that time?

16 A Sergeant.

17 Q What time did you go on duty September 21st?

18 A I worked from 11:30 to 1:30.

19 Q Do you recall your first occasion of anything in
20 the area of Marina Village?

21 A Shortly after 12:30, Blue 11, that's a car that
22 Officer Free and Matthews were in, received a call that three
23 young men, two black men and one light-skinned male, were
24 wheeling a safe down around the area of Park Avenue and
25 Blue 11 was detailed at that time. So I went down --

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Q Any other reference to anything else other than the
safe?

A Not at that time. The first report came in it was just the safe. So I went down with Blue 11 and we got to South --

Q Were you in the car with them?

A No, I was in my own car.

Q Blue 11 is the code name for that car?

A Right. I was in radio car S1 by myself. We both arrived at South and Railroad and Blue 11, Officers Freer and Matthews, got out of the car and just then a call came in for them to call on the ERS box. They went to the ERS box and Officer Matthews answered the phone or called and he came back with the information that names were given, Jeffrey Croom, Kevin Blackwell and a third party, either light-skinned black or a Puerto Rican or white, we weren't sure, three young men were carrying office equipment, typewriters and other items, into the apartment in Building 3, Apartment No. 413.

Q About what time was that that you received this information?

A It would probably be around 12:34 a.m.

Q What did you do then?

A I went back to the radio car and I called for a back-up unit to send one radio car and I told Patrolmen Freer

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and Matthews to go around into the back and I would cover the front.

Q You went around the front?

A Right.

Q Did you look through the back window?

A I was there before I went around the front of the building.

Q Did you look yourself through the back window?

A Yes, I did.

Q What did you see?

A I saw cases of Coke and the entrance to the pantry, just as you go into the pantry, cases of Coke.

Q How many cases of Coke, do you recall?

A Five or six. Two typewriters and a little black case of some sort.

Q Then you went around to the front?

A I went around to the front.

Q Were you let into the apartment?

A Later on I went to the door. I knocked and I received no answer, but in a little while the door opened and Officer Freer let me in.

Q Who was in the apartment when you walked in?

A There was John Croom, Jeffrey, two women and a fellow turned out to be Sparks, I think, Mr. Sparks, and

Pastor-direct

407

were --

Q Was there any arguing going on with any of the people there?

A Not to my knowledge. John Croom was just eating.
about
He didn't appear to be disturbed / anything. Jeffrey Croom
was yelling, what are we doing there, and more or less,
for us to get out.

Q What did you do then?

A Well, I questioned John Croom as to the items that were in the pantry, and he said that when he came home his son Jeffrey and a friend of his were carrying these items into the apartment.

I asked him if he knew where they came from and he said no, that apparently they were there with his approval.

MR. WEINSTEIN: I didn't hear that.

A They must have been there with his approval. He didn't question them as to where they got it or what they were doing there. They just brought it in and he just didn't seem to be upset about it.

Q Up until this time had you seen a safe?

A. No, I didn't see the safe.

Q Did you ever see the safe that evening?

A No, I didn't.

Q After you questioned John Croom what did you do?

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A Well, it's pretty hard to remember exactly what was done. I spent most of my time, because we were there like between five or ten minutes, I was trying to get information out of plaintiff Croom as to where these articles came from and what they were doing there and --

Q Did other police officers arrive?

A Yes. We were only there like three or four minutes and then Officer Dentato, Scanlon arrived and Sergeant Bartomeli and at that time, Sergeant Leake.

Q Did there come a time when Jeffrey Croom was placed under arrest?

A We went there mainly on speedy information and reasonable grounds to make an arrest, to arrest --

MR. WEINSTEIN: I am going to object to that answer as not responsive to the question.

THE COURT: It's of no particular harm. What is it you want to discuss? Certainly not his assessment of the evidence?

MR. KEARNS: No, just what happened when he last --

Q Can you tell us what happened when Jeffrey Croom was arrested? Start out with where he was, what he was doing.

A Jeffrey was sitting on the couch and I was standing next to the kitchen table or off to one side near the table,

Q At that time did you know any burglary had taken
place?

A We were just about positive, yes.

Q Did you have any information that any burglary had
taken place at the time you entered the house?

A Positively.

Q From whom?

A From the conversation, that there was a safe being
wheeled down the street, you know that a burglary had taken
place.

Q You didn't find any safe in the apartment?

A No.

Q You didn't see any safe?

A No.

Q Did you know where it had been taken from?

A No.

Q You yourself never spoke to whoever it was at
headquarters that had gotten this information, is that right?

A No, I didn't.

Q Whatever you knew about it was what Matthews told
you?

A That is correct.

Q With regard to John Croom, what did he do that
justified your causing him to be arrested or participating in

Copy

1 his arrest?

2 A Please repeat that again.

3 Q What did John Croom do that justified, as far as
4 you were concerned, your participation in his arrest?

5 A Well, he had these properties, articles that
6 were apparently stolen, they were there with his approval, his
7 knowledge, he saw h's son and friend bringing these articles
8 into the house.

9 Q Well, at that time --

10 A He made no effort --

11 Q He made no effort to do what, sir?

12 A To question his son apparently or to find out
13 where these items came from and his attitude was, he was
14 perfectly happy regardless of what his son would bring in there.
15 He didn't question him, he didn't know where they came from.

16 Q He didn't know where they came from?

17 A No, he didn't inquire either.

18 Q And so the fact that he didn't inquire, as far as
19 you were concerned, was the basis on which he was arrested, is
20 that right?

21 A That is right, these articles were there with his
22 approval in his home.

23 Q To the best of your information, how long could
24 those articles have been there?

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Pastor-cross

A Five or ten minutes.

Q You say that you didn't actually see Jeff go through the door, is that right?

A I heard the glass break, but I didn't see him. I looked over after the crash.

Q You say something was blocking your view?

A Well, they were walking away from me, the two officers and Jeffrey, they had their backs to me.

Q Who was blocking your view?

A Well, all three of them. I couldn't see exactly what was going on. I was more towards the kitchen.

Q Were there other officers around Jeffrey taking him out?

A Not to my knowledge.

Q Were there any officers between you and Jeffrey aside from Scanlon and Dentato?

A I think Sergeant Bartomeli was in between.

Q Did you have a clear view of Jeff's back?

A No, not a complete clear view.

Q What was between you and Jeffrey's back?

A I think it was Sergeant Bartomeli. He was between me and the door and the parties going out.

Q Was Jeffrey in handcuffs at the time?

A Yes.

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750 MAIN STREET

A 41

Pastor-cross

2 and pushed the carriage away from the apartment.

3 Q Was any indication given by Matthews to you as to
4 when this stuff was supposedly being brought into the apartment?

5 A A few minutes prior to him receiving the call.

6 Q Did Matthews tell you that?

7 A You asked me if I -- I assume.

8 Q I didn't ask you what you assumed. I said, was any
9 indication given as to when this stuff was brought in.

10 A A few minutes prior to them receiving the call.

11 Q Who gave that indication and in what form?

12 A Well, when Matthews told me, he said, "I just got
13 the call on the phone that these articles were just-- had
14 just been carried in."

15 Q Had just been carried in?

16 A Right.

17 Q But this was already after you had been to the area
18 and looked around as a result of the radio call and had seen
19 nothing amiss?

20 A As far as the safe goes, yes.

21 Q As far as anything goes, when you got there --

22 A We weren't looking for office equipment. How
23 could we find anything else? A call came in originally a safe.
24 That's all we were looking for.

25 Q You mean to say that if you had been looking for

2 a safe and you noticed some people wheeling some typewriters
3 into the house you wouldn't have paid any attention because
4 that was only about the safe?

5 A No, that's silly, no. You know better than that.

6 Q I had thought so.

7 A The safe was mentioned in the original call and
8 that's what we mainly were looking for.

9 Q But when you got there after the original radio
10 call came in you saw nobody wheeling anything in or any type-
writer or anything amiss at all? Did you?

12 A No.

13 Q How long from the time you first arrived on the
14 scene until you entered the Croom apartment?

15 A I would say about three minutes.

16 Q That's for Matthews to go, make his call, have the
17 conversation, come back and what was reported was three minutes?

18 A About three or four minutes, I would say.

19 Q Now, how long have you been on the police force?

20 A Twenty-four years.

21 Q So you are reasonably well acquainted with normal
22 police procedures, I take it?

23 A Yes.

24 Q Is it or is it not normal police procedure when
25 somebody makes a call, especially reporting what might be

Leake-direct

Q Equipped with a radio?

A Yes, sir.

Q Was there anyone in the car with you?

A No, sir.

Q When is the first indication that -- what was the first indication you got about this incident that we are in court on?

A The police radio is going constantly and I can hear broadcasts from other sections of the city and I was aware that a car was detailed to investigate some men wheeling a safe down the street and some other articles and I was listening to this, I was aware of it. And a while later, maybe ten or fifteen minutes, a signal 32 came in, a code for an officer needs help.

In our procedure any car that's not busy that we're rolling, would go to that location, which I did.

Q What did you find when you got there?

A Well, in Building 32, Marina Village, which is -- Columbia Street and South Avenue, several police cars were there, Patrolman De Cosmo was outside watching the cars that were there and I asked him where the policemen were and he pointed out the apartment and I went and walked in. In the apartment I saw Sergeant Pastor, whose area it was, Sergeant Bartomeli, standing there, and Patrolmen Dentato, Scanlon,

1 2 Matthews, Freer, and Patrolman Richards.

3 Q What was going on when you got into the apartment?

4 A They were questioning the people there. I walked
5 to the side of the room and I stood there observing what was
6 going on.

7 Q What did you see happen?

8 A I saw an elderly gentleman, he was at the table
9 having supper in the kitchen. Jeffrey Croom, later I knew him
10 to be Jeffrey Croom, was sitting on the couch in the living
11 room, his back was to the kitchen table. He was being
12 questioned by Patrolmen Freer and Matthews.

13 Q Then what happened?

14 A People started to argue. Jeffrey Croom and some
15 other people and Sergeant Bartomeli was standing on the side of
16 the room, says, "Is this man under arrest?" Either Patrolman
17 Freer or Matthews stated that he was, I am not sure which one
18 did, and Bartomeli said, "Take him out of here."

19 Patrolmen Scanlon, Dentato, approached him.

20 Patrolman Scanlon had the handcuffs out and went to put them on
21 and Jeffrey Croom stood up and took a punch at him. Patrolman
22 Scanlon pulled back and then Patrolmen Dentato, Matthews, Freer,
23 and Sergeant Bartomeli all grabbed Jeffrey Crooms. They
24 grabbed him to hold him and they fell down into a group; the
25 settee slid, hit some chairs, which hit the table, the table

went over and Mr. Croom, the father, we later found out to be,
he got very upset because his supper flew on the floor. By
then Jeffrey Croom is handcuffed.

Patrolmen Dentato and Scanlon started to lead him out to the front door. I followed him and I was approximately three foot behind. They got near -- he was struggling, but as he got near the door he turned, Jeffrey Croom turned, he kicked Patrolman Dentato in the leg and he shoved back and his shoulder went through the upper storm door, the glass of the upper storm door. I saw this. I saw he was bleeding, and I said, "Get that man, get him to the hospital right away." The hospital was three blocks of the house.

Was he taken immediately to the hospital?

A That I don't know. They left in the car with him.

Q What did you do at that point?

Then I was outside. I was talking to Patrolman

De Cosmo, watching the cars. There was quite a group of people out there and as they brought Mr. Croom out, the other policemen left and I knew two sergeants from that area were tied up and I called two cars down. By then I knew there had been a break. They had claimed there had been a break, they recovered stolen property. So I sent two cars to search the area to see where a break was.

Approximately an hour later, Patrolman Mariano

Leake-direct

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1 in Blue 13 called me at the parking lot, Sprague Electric Co.,
2 rear of the building, a screening had been pulled off the rear
3 window, the window had been broken and there was a typewriter
4 laying on the black loading platform.

5 We notified the Complaint Bureau to contact the
6 owner; a Mr. Pjura came down. I instructed Patrolman Marina
7 to talk to Mr. Pjura and see what he was missing and he was
8 taking a list of that.

9 We left Mr. Pjura in charge of the building.
10

11 Q Do you see Mr. Pjura here today?

12 A Yes, sir.

13 MR. KEARNS: Would you stand up, Mr. Pjura?

14 A That's Mr. Pjura. The man that came to the scene.

15 After we turned the building over to Mr. Pjura I told Patrolman
16 Marina, I said, "We are going to follow the route down to the
17 house" which I think the route would take and we crossed Park
18 Avenue. We were both in separate cars right next to each other;
19 we went down to Johnson Street, made a right turn to Columbia
20 Street and came down Columbia Street, which was to the rear of
21 Building 32, which was where the Croom's apartment was and we
22 looked on the sidewalk and there is a safe sitting there.

23 We walked up to it and it was the common sidewalk
24 where the -- Jeffrey's rear sidewalk come out and join the
25 common sidewalk right near a fence.

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NEW YORK CITY

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2 in there talking to Mr. Pjura approximately a half an hour,
3 an hour and a half -- I believe it was close to 3:00 a.m.

4 MR. KEARNS: That's all I have.

5 CROSS-EXAMINATION

6 BY MR. WEINSTEIN:

7 Q As I understand, Lieutenant Leake, you say that the
8 safe was found where the walkway from the back of the Croom
9 apartment joined the common sidewalk?

10 A Yes, sir.

11 Q Let me show you pictures --

12 A They have a small back yard, the sidewalk leading
13 out to the common sidewalk where the whole village used, it
14 was not in their yard, it was where their walk joined the
15 common sidewalk.

16 Q Showing you Defendants' Exhibit D, do you recognize
17 which is the Croom apartment in there?

18 A Three. It was right out here. You can see the
19 opening in the fence. It was right here.

20 Q You're indicating for the jury the opening right at
21 the entry way of the gate as you would enter the back yard?

22 A Yes.

23 Q That this was four feet high?

24 A Approximately. I am guessing. It was chest-high
25 to me.

Q About 30 inches wide?

A Yes, sir.

Q Could anybody walking up to the back door of the Croom apartment have possibly missed that object sitting right at the entry way to the back yard?

A I don't see how.

Q Unless it was put there after everybody had left?

A Yes, sir.

Q Yes. Now, by the way, when you got to the apartment

you actually entered the living room I take it?

A Yes.

Q How many civilians were there?

A Four males and two females.

Q Two females?

A Two females.

Q Did you ascertain the identify of the two females?

A No, sir, at that point as I stated before, it

wasn't my area, I come in there and I saw everything was under control. I stood aside and I was observing what was going on.

Something I did leave out, I just remembered.

I was standing next to a Walter Sparks near the closet door where the living room joines the kitchen. When they tried to place the cuffs on Jeffrey Crooms, the struggle started, he tried to intervene. I struggled with him to hold him back and

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1 is missing.

2 After going through there, I did notice for example,
3 the safe was gone and there was Coke gone.

4 Q You say there was Coke gone?

5 A Yes, sir, sir.

6 Q How do you keep Coke in your office?

7 A By the case.

8 Q How many cases were gone?

9 A As I can recall, probably in the vicinity of half
10 a dozen cases.

11 Q Anything else that was missing?

12 A Well, hand carts or push carts if you want to call
13 them. They were missing, and as I say, the safe was missing.

14 Q What kind of pushcarts were missing, can you
15 describe those for the jury?

16 A Some are the grocery chain variety that they use
17 in the chain store. At times in filling orders we would take
18 them and use them to fill orders.

19 In addition to that there were hand trucks that we
20 use constantly and as I recall, at least one possibly others,
21 were not in their proper place. In other words, they were
22 missing.

23 Q Did you see any items of yours outside your
24 building?

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2 have various wa ks and you can't come into, I would say,
3 probably four buildings or something would come together into
4 a more or less a little larger court, I would call it a court.

5 Q This is Marina Village?

6 A Marina Village, right. I identified the safe.

7 Q What size was the safe?

8 A The safe was approximately three feet high, maybe
9 a little larger than that. I would say maybe 30 inches wide.

10 Q It had wheels on the bottom?

11 A It had have casters, but when we -- when I identified
12 it the casters, the wheels were broken. Two of the wheels were
13 broken, which more or less bore out the theory that it was
14 pushed over the back platform and this is where the casters
15 broke.

16 MR. KEARNS: That's all, your Honor.

17 CROSS-EXAMINATION

18 BY MR. WEINSTEIN:

19 Q I will be very brief, sir.

20 About how heavy was this afe? You couldn't carry it?

21 A No, I wouldn't say you could carry it. As I say,
22 but with the casters it could have been pushed.

23 Q But the wheels and the casters were broken when
24 you found it?

25 A There were two wheels still in good shape and with

Copy

1 Q Not the television, tape recorders?

2 A No, sir.

3 MR. WEINSTEIN: Nothing further, your Honor.

4 REDIRECT EXAMINATION

5 BY MR. KEARNS:

6 Q Approximately how far from the place you found the
7 safe was your office, Sprague Electric Co.?

8 A Maybe 150 yards, 200 yards.

9 Q Is that on the side of Park Avenue from where the
10 safe was?

11 A It's across Park Avenue and into the village as I
12 say, maybe another 100 yards, something like that.

13 MR. KEARNS: Thank you. That's all.

14 THE COURT: All right. You are excused.

15 Thank you.

16 (Witness excused.)

17 THE COURT: We will recess until 2:00 o'clock.

18 I am still hopeful we will conclude the
19 evidence this afternoon.

20 (Luncheon recess.)

21

22

23

24

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1 A Yes, I was.

2 C Q Was there anyone with you at the time?

3 A No.

4 Q What is the first indication you received of anything
5 involving this incident at Marina Village?

6 A When -- well, I heard the original call of the safe
7 being carted in the area of Park Avenue and then a little later
8 I heard the signal 32 which is a policeman in trouble, at the
9 Marina Village and Building 32, and I responded to that.

10 Q You went down there?

11 A Yes.

12 Q Would you tell the ladies and gentlemen of the
13 jury and the Court what you saw when you got there?

14 A When I got there, there were a few cars, police
15 cars, parked outside. I went into the apartment and I went in
16 there and I saw six civilians and there were five policemen
17 inside and there was a little commotion, a lot of talking and
18 a lot of discussion. And when I went in there, I spoke to, it
19 was either Patrolman Freer or Matthews, or Sergeant Pastor,
20 and I asked him if anybody here had to be arrested and I don't
21 remember who, but one of them said yes, Jeffrey Crocm, who is
22 sitting on the couch.

23 Then I instructed Patrolman Dentato and Scanlon
24 to take this man downtown.

SANDERS, GALE & RUSSELL
Certified Stenotype Reporters

A53

750 MAIN STREET
HARTFORD, CONNECTICUT

141 CHURCH STREET

1
2 JOHN CROOME, called as a witness in rebuttal, having
3 been previously duly sworn, resumed and testified further
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. WEINSTEIN:

7 Q Do you recall being in the kitchen when the police,
8 Freer and Matthews, came in?

9 A I do.

10 Q When they came in to your kitchen did they discuss
11 with you anything that was in the vicinity of the pantry of the
12 kitchen?

13 A Yes. They discussed anything, but I told them
14 about the Coca Cola and then I said, "You need a search warrant
15 because of the Coca Cola, so the rest of this was mine."

16 Q What did he point out in the vicinity of the
17 pantry that he said justified his coming into the kitchen?

18 A Nothing as I know of.

19 Q Did he point to some objects in the pantry that he
20 said he thought should be there?

21 A I don't see nothing.

22 Q Not what you saw. Did he tell you that he saw
23 something in the pantry, did he ask any questions about anything
24 in the pantry?

25 A Just Coca Cola.

Copy

2 Q Were there any typewriters in the pantry?

3 A No.

4 Q Did you see any typewriters that night?

5 A No. If they were there, I just put my garbage out,
6 I could have saw them.

7 Q At any time that night did you see any typewriters?

8 A No.

9 Q Whether at your home or any place else, did you see
10 any typewriters?

11 A I don't remember whether it was at night or the
12 next day when I went up to the Detective Bureau, they had type-
13 writers there. I never saw them before.

14 Q So you saw some typewriters at the Detective Bureau? -
15 Those typewriters that you saw at the Detective Bureau, are
16 they the ones shown in these pictures I show you, indicating
17 Defendants' I and J, are those the ones you saw in the Detective
18 Bureau?

19 A It seems so.

20 Q Were those typewriters or similar ones in your house
21 that night that you know of?

22 A No.

23 A Only typewriter I got belongs to my wife.

24 Q By the way, was your wife home that evening?

25 A No.

United States District Cour^t
District of Connecticut
FILED AT BRIDGEPORT
Copy

April 3, 1975
Sylvester A. Markowski, Clerk
By: *Vincent P. Rose*
Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT
JOHN CROOM and JEFFREY CROOM)
)
v.) CIVIL NO. B-588
)
PETER FREER and FRANCIS MATTHEWS)

INTERROGATORIES TO THE JURY

1. Do you find that Freer acted unreasonably in entering John Croom's apartment without a search warrant? YES _____ NO

2. If you have answered "yes" to question 1, do you find that Freer believed in good faith that he had a right to enter the apartment without a warrant and that there was a reasonable basis for Freer's belief?

YES _____ NO _____

3. Do you find that Matthews acted unreasonably in entering John Croom's apartment without a search warrant? YES _____ NO

4. If you have answered "yes" to question 3, do you find that Matthews believed in good faith that he had a right to enter the apartment without a warrant and that there was a reasonable basis for Matthews' belief?

YES _____ NO _____

5. Do you find that Freer had probable cause to believe that John Croom had committed the offense of receiving stolen goods? YES _____ NO

6. If you have answered "no" to question 5, do you find that Freer believed in good faith that he had probable cause to arrest John Croom for the offense of receiving stolen goods and that there was a reasonable basis for Freer's belief? YES _____ NO

7. Do you find that Matthews had probable cause to believe that John Croom had committed the offense of receiving stolen goods? YES _____ NO

8. If you have answered "no" to question 7, do you find that Matthews believed in good faith that he had probable cause to arrest John Croom for the offense of receiving stolen goods and that there was a reasonable basis for Matthews' belief? YES _____ NO

9. Do you find that any of the following officers, in connection with the episode near the couch when Jeffrey Croom was hand-cuffed, used excessive force that was unreasonable under the circumstances:

Freer? YES _____ NO

Matthews? YES _____ NO

Copy

10. Do you find that any of the following officers, in connection with the episode at the front door when Jeffrey Croom's shoulder was cut, used excessive force that was unreasonable under the circumstances:

Freer? YES _____ NO ✓
Matthews? YES _____ NO ✓

11. If you have found that one or more of the defendants acted so as to deny John Croom his constitutional rights with respect to one or more of the following, what amount of compensatory damages, if any, do you find he is entitled to?

- (a) for the entry into John Croom's apartment? \$ NONE
(b) for the arrest of John Croom and the reasonable foreseeble consequences of that arrest? \$ 10,650.00

12. If you have found that one or more of the defendants acted so as to deny Jeffrey Croom his constitutional rights with respect to one or more of the following, what amount of compensatory damages, if any, do you find he is entitled to?

- (a) for the use of excessive force in connection with the episode at the couch? \$ NONE
(b) for the use of excessive force in connection with the episode at the front door? \$ NONE

13. What amount of punitive damages, if any, do you find John Croom is entitled to from the following officers:

Freer? \$ NONE
Matthews? \$ NONE

14. What amount of punitive damages, if any, do you find Jeffrey Croom is entitled to from the following officers:

Freer? \$ NONE
Matthews? \$ NONE

March 27, 1975

John V. Segnati
(FOREMAN) (REDACTED)

2
FILED

JUN 19 1 49 PM '75

U.S. DISTRICT COURT
NEW HAVEN, CONN.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JOHN CROOM, ET AL

v.

CIVIL NO. B-588

PETER FREER, ET AL

RULING ON DEFENDANTS' POST-TRIAL MOTIONS

Defendant police officers move for a judgment notwithstanding the verdict or a new trial following the entry of judgment against them in favor of the plaintiff in a suit under 42 U.S.C. § 1983 alleging denial of civil rights based on a false arrest. The only claim meriting discussion concerns the Court's resubmission of the case to the jury following inconsistent responses to interrogatories.

The jury answered in the affirmative questions 6 and 8, asking whether the defendants believed in good faith that they had probable cause to arrest plaintiff and whether there was a reasonable basis for such a belief. See Bivens v. Six Unknown Agents, 456 F.2d 1339 (2d Cir. 1972). The jury also answered with the amount of \$10,650 question 11(b), asking what damages the plaintiff was entitled to for the actions of the defendants in denying him his constitutional rights.^{1/}

The Court considered these answers inconsistent and recharged the jury, reminding them that if defendants had established their good faith defense, plaintiff was not entitled to damages, and conversely, if he was entitled to

damages, it could only be because defendants had not established their good faith defense. The jury had unequivocally determined that the arrest was made without probable cause. After further deliberation, the jury changed their answers to questions 6 and 8 to the negative.

Fed. R. Civ. P. 49(b), providing for both a general verdict and special interrogatories, specifically provides for resubmission in the event of inconsistent responses, and no similar resubmission authority is contained in Fed. R. Civ. P. 49(a), providing only for special interrogatories. The absence of the resubmission provision does not necessarily mean that such authority is lacking when the case is submitted pursuant to Rule 49(a). See University Computing Co. v. Lykes-Youngstown Corp., 504 F.2d 518, 546-47 (5th Cir. 1974). No sound reason appears why a jury should not be permitted to deliberate further and attempt to return consistent responses, whether or not they have been asked to return a general verdict. In any event, this case is more appropriately to be governed by Rule 49(b), since question 11(b) was in the nature of a general verdict, combining the amount of damages with the conclusion of liability, just like question 7 in Ressler v. States Marine Lines, Inc., ___ F.2d ___ (2d Cir. May 6, 1975) (slip op. 3441).

The motion for judgment notwithstanding the verdict or a new trial is denied.

Dated at New Haven, Connecticut, this 18 day of June, 1975.

Jon O. Newman
Jon O. Newman
United States District Judge

FOOTNOTE

1/ The interrogatory, with the jury's responses, reads as follows:

11. If you have found that one or more of the defendants acted so as to deny John Croom his constitutional rights with respect to one or more of the following, what amount of compensatory damages, if any, do you find he is entitled to?

(a) for the entry into John Croom's apartment? \$ NONE

(b) for the arrest of John Croom and the reasonable foreseeable consequences of that arrest? \$ 10,650.00

CASE #

COPY

71-3673

Sert. 21 1971

12:34 AM

To Capt. H. Stevens
Det. M. Gru
Capt. J. Clancy
Plt. # 4 Commanding

From: Lt. James J. Greer & P. Matthews
Re: B & E at Sprague Elect Co. 374 Railroad Ave.
Arrests of three persons Jeffery Croon, John Croon & Walter Sparks, also Recovery of goods. File # 55305 Call # 71-3673

Sir;

Acting on speedy information from a reliable source who's information in the past has resulted in arrests we went to Blk. #2 Apt. #13 Fairina Villare, the apt of John Croon. Upon knocking on the rear door, we (from front & myself) observed two typewriters in the pantry. We were informed prior to going to the apt, that Jeffery Croon of Blk #3 apt #13 Fairina Villare a Kevin Blackwell address unknown along with a 1/2" about 6 ft wearing dungrees, white tee shirt & long hair, were seen carrying the typewriters into the apt. When knocking on the door Jeffery Croon came to the door & asked what we wanted, he told him we were police officers & wanted to come into the apt. He refused to open the door, and stated that we needed a search warrant, so then forced our way into the apt. Jeffery Croon was placed under arrest. The Blackwell youth was not at the apt. We called for the assistance of a couple more radio cars to bring in the goods that were in the apt. to the Detective Bureau. While escorting Jeffery Croon out of the apt he began to fight with Lt. James McDonnell & Dente, broke away, and went into the front glass storm door, receiving cuts on the shoulder & arm treated at Park City Hospital. Croon's left toe "doctors" & broken.

Mr. William Jura vice president of the Sprague Elect. was notified and came to the B.E. to identify his property taken from a break at Blk #2 apt. #13 Fairina Villare. Break was found by Pt. Jim Farren & Det. Peake. Identification was 1(1) black & decker sabre saw- (1) Olympia electric typewriter Z-1001-(1) 1.5KVA electric typewriter - (1) 573872 model 11-3 (1) Admiral stereo AM/FM radio. Also taken from the break, and found in the rear of Blk #3 Fairina Vill, was a safe 36" x 30" color green this was taken to the Police Garage, for B.M. to check.

Also arrested along with Jeffery Croon was his father whose name the goods were in, John Croon, and Walter Sparks 507 Park Ave who was in the apt, and interviewed with police during the arrest. There were two other C.I.s one C.I. identified as J. was three auto tire decks, two of them were "Dunlop" and one of them was a "Bridgestone", also with a "Laramie" 9 in t.v. transisterized model 6101. These were found and given to record by Lt. Dente in the apt, but not known at the time, the fifth article of "Post-Call", also said to be taken.

Arr. at 6:57AM 7/21/71

A61

SEARCHED INDEXED SERIALIZED FILED 7/21/71

State of Connecticut

No. 19 196

STATE

vs.

Jeffrey L Coom

SUPERIOR COURT

COUNTY OF FAIRFIELD

Nov 29 1970

Present, Hon. Irving Levine

Judge

Judge

Upon the information of ~~John S. Smith~~, Attorney for the State, within and for said County of Fairfield, charging said Jeffrey L Coom, now in the custody of the Sheriff of said County, with the crime of Battery with Violence 50056-11 & Burglary 50-00

as follows:

The accused appeared with his attorney, H. Freedlich, Esq., and being a minor of the age of 16 years, the Court appointed D. McHugh, Esq., to represent the prisoner then for trial. "Not Guilty" was entered to be tried by a jury of twelve men of the state. After a short trial lasting 75 minutes, the jury found the accused guilty of both counts. It is further ordered by the Court that the prisoner be guilty of both counts, substituted in manner and form as charged in said information.

The Court thereupon sentenced said prisoner to be confined in the State Prison at New Haven for a term of one year and one month in the State Jail at New Haven, and more than one year and one month less than two years, to be committed to the Connecticut Reformatory at Cheshire, in New Haven County, for an indefinite term on each count concurrently & concurrent with term in 19 199.

Which sentence the Court ordered suspended at the expiration of one year months, and said prisoner placed in charge of the Adult Probation Commission of the State of Connecticut and the Probation Officer to whom said case is assigned for the term of one year from the date of said suspension and

Further, Ordered, that the accused report to said Probation Officer, as required by him during said period and in all respects comply with his orders and directions, in accordance with the provisions of the law relating to Adult Probation.

By the Court

Bernard J. Luckhardt
Assistant Clerk

202

17199

State of Connecticut

Mar 20 1970

Present, Hon. Irving Lewis

Tudor

Geographie

By the Court

Barnard J. Leopold
Assistant Clerk